

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Patent Application of

THOMPSON et al.

Atty. Ref.: 723-984

Serial No. 09/723,319

TC/A.U.: 3623

Filed: November 28, 2000

Examiner: Nadja N. Chong Cruz

For: RESOURCE MANAGEMENT SYSTEM

April 19, 2010 (A Monday)

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Sir:

Applicant submits herewith its Reply Brief on Appeal pursuant to 37 C.F.R.

§41.41.

REMARKS

Applicant respectfully submits that the Examiner's Answer continues to misread O'Brien.

As discussed in the Appeal Brief, in O'Brien, the scheduling system assigns the employees to shifts for answering telephone calls, while accommodating factors such as staffing requirements and employee preferences. O'Brien deals with workers whose work is to answer calls and thus, referring to claim 1, O'Brien does not disclose permitting each worker to specify two or more different work activities that the worker plans to perform during different time periods of the same workday, whereby a forecast module can then compare a service level forecasted to be needed for different work activities and a service level corresponding to the workers that plan to engage in these different work activities as specified in the workers' work plans.

The Examiner's Answer posits that when shifts are swapped in O'Brien, the worker specifies lunch time during a work day. While lunch may be considered a work activity, it is not a work activity for there is a needed "service level" and thus lunch is not a work activity for which a forecast module compares a needed service level to a service level corresponding to the workers that plan to engage in that activity. Consequently, even under the view set forth in the Examiner's Answer, O'Brien is still deficient with respect to the claims on appeal because any nominal forecast module of O'Brien deals with a single work activity for which there is a needed service level, i.e., answering

telephone calls. There is no disclosure in O'Brien of a forecast module that compares a service level forecasted to be needed for different work activities and a service level corresponding to the workers that plan to engage in these different work activities as specified in the workers' work plans.

The other applied references do not remedy these deficiencies of O'Brien.

The above comments are made without waiver of the arguments presented in the Appeal Brief, which arguments are incorporated herein by reference.

CONCLUSION

For the reasons advanced above and the Appeal Brief, reversal of the Examiner's rejections and allowance of all pending claims is solicited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /Michael J. Shea/
Michael J. Shea
Reg. No. 34,725

MJS:mjs
901 North Glebe Road, 11th Floor
Arlington, VA 22202-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100